

FIRST REGULAR SESSION

HOUSE BILL NO. 1266

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE UNSICKER.

2348H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 210.110, RSMo, and to enact in lieu thereof two new sections relating to child abuse or neglect investigations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 210.110, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 210.110 and 210.124, to read as follows:

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse. Victims of abuse shall also include any victims of sex trafficking or severe forms of trafficking as those terms are defined in ~~[22 U.S.C. 78 Section 7102(9)-(10)]~~ **22 U.S.C. Section 7102, as amended;**

(2) "Assessment and treatment services for children", an approach to be developed by the children's division which will recognize and treat the specific needs of at-risk and abused or neglected children. The developmental and medical assessment may be a broad physical, developmental, and mental health screening to be completed within thirty days of a child's entry into custody and in accordance with the periodicity schedule set forth by the American Academy of Pediatrics thereafter as long as the child remains in care. Screenings may be offered at a centralized location and include, at a minimum, the following:

(a) Complete physical to be performed by a pediatrician familiar with the effects of abuse and neglect on young children;

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (b) Developmental, behavioral, and emotional screening in addition to early periodic
19 screening, diagnosis, and treatment services, including a core set of standardized and
20 recognized instruments as well as interviews with the child and appropriate caregivers. The
21 screening battery may be performed by a licensed mental health professional familiar with the
22 effects of abuse and neglect on young children, who will then serve as the liaison between all
23 service providers in ensuring that needed services are provided. Such treatment services may
24 include in-home services, out-of-home placement, intensive twenty-four-hour treatment
25 services, family counseling, parenting training and other best practices.

26
27 Children whose screenings indicate an area of concern may complete a comprehensive, in-
28 depth health, psychodiagnostic, or developmental assessment within sixty days of entry into
29 custody;

30 (3) "Central registry", a registry of persons where the division has found probable
31 cause to believe prior to August 28, 2004, or by a preponderance of the evidence after August
32 28, 2004, or a court has substantiated through court adjudication that the individual has
33 committed child abuse or neglect or the person has pled guilty or has been found guilty of a
34 crime pursuant to section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or
35 567.050 if the victim is a child less than eighteen years of age, or any other crime pursuant to
36 chapter 566 if the victim is a child less than eighteen years of age and the perpetrator is
37 twenty-one years of age or older, a crime under section 568.020, 568.030, 568.045, 568.050,
38 568.060, 568.080, 568.090, 573.023, 573.025, 573.035, 573.037, 573.040, 573.200, or
39 573.205, or an attempt to commit any such crimes. Any persons placed on the registry prior
40 to August 28, 2004, shall remain on the registry for the duration of time required by section
41 210.152;

42 (4) "Child", any person, regardless of physical or mental condition, under eighteen
43 years of age;

44 (5) "Children's services providers and agencies", any public, quasi-public, or private
45 entity with the appropriate and relevant training and expertise in delivering services to
46 children and their families as determined by the children's division, and capable of providing
47 direct services and other family services for children in the custody of the children's division
48 or any such entities or agencies that are receiving state moneys for such services;

49 (6) **"Designated caregiver", an individual who is eighteen years of age or older
50 and is duly designated as a caregiver by a parent;**

51 (7) "Director", the director of the Missouri children's division within the department
52 of social services;

53 ~~[(7)]~~ (8) "Division", the Missouri children's division within the department of social
54 services;

55 ~~[(8)]~~ (9) "Family assessment and services", an approach to be developed by the
56 children's division which will provide for a prompt assessment of a child who has been
57 reported to the division as a victim of abuse or neglect by a person responsible for that child's
58 care, custody or control and of that child's family, including risk of abuse and neglect and, if
59 necessary, the provision of community-based services to reduce the risk and support the
60 family;

61 ~~[(9)]~~ (10) "Family support team meeting" or "team meeting", a meeting convened by
62 the division or children's services provider in behalf of the family and/or child for the purpose
63 of determining service and treatment needs, determining the need for placement and
64 developing a plan for reunification or other permanency options, determining the appropriate
65 placement of the child, evaluating case progress, and establishing and revising the case plan;

66 ~~[(10)]~~ (11) "Investigation", the collection of physical and verbal evidence to
67 determine if a child has been abused or neglected;

68 ~~[(11)]~~ (12) "Jail or detention center personnel", employees and volunteers working in
69 any premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
70 provided to persons who are being held under custody of the law;

71 ~~[(12)]~~ (13) "Neglect", failure to provide, by those responsible for the care, custody,
72 and control of the child, the proper or necessary support, education as required by law,
73 nutrition or medical, surgical, or any other care necessary for the child's well-being. Victims
74 of neglect shall also include any victims of sex trafficking or severe forms of trafficking as
75 those terms are defined in ~~[22 U.S.C. 78 Section 7102(9) (10)]~~ **22 U.S.C. Section 7102, as**
76 **amended;**

77 ~~[(13)]~~ (14) "Preponderance of the evidence", that degree of evidence that is of greater
78 weight or more convincing than the evidence which is offered in opposition to it or evidence
79 which as a whole shows the fact to be proved to be more probable than not;

80 ~~[(14)]~~ (15) "Probable cause", available facts when viewed in the light of surrounding
81 circumstances which would cause a reasonable person to believe a child was abused or
82 neglected;

83 **(16) "Relative caregiver", a competent adult who is related to a child by blood,**
84 **marriage, or adoption and who is not the parent;**

85 ~~[(15)]~~ (17) "Report", the communication of an allegation of child abuse or neglect to
86 the division pursuant to section 210.115;

87 ~~[(16)]~~ (18) "Those responsible for the care, custody, and control of the child",
88 includes, but is not limited to:

89 (a) The parents or legal guardians of a child;

90 (b) Other members of the child's household;

91 (c) Those exercising supervision over a child for any part of a twenty-four-hour day;

92 (d) Any adult person who has access to the child based on relationship to the parents
93 of the child or members of the child's household or the family;

94 (e) Any person who takes control of the child by deception, force, or coercion; or

95 (f) School personnel, contractors, and volunteers, if the relationship with the child
96 was established through the school or through school-related activities, even if the alleged
97 abuse or neglect occurred outside of school hours or off school grounds.

**210.124. 1. As soon as possible after initiating an investigation of a parent or
2 other person having legal custody of a child, the division shall, upon first contact with
3 the parent or person, provide to the parent or person:**

4 **(1) A summary that:**

5 **(a) Is brief and easily understood;**

6 **(b) Is written in a language that the parent or person understands, or if the
7 parent or person is illiterate, is read to the parent or person in a language that the
8 parent or person understands; and**

9 **(c) Contains the division's procedures for conducting an investigation of alleged
10 child abuse or neglect, including:**

11 **a. A description of the circumstances under which the division would request to
12 remove the child from the home through the judicial system, and an explanation that the
13 law requires the division to refer all reports of alleged child abuse or neglect to a law
14 enforcement agency for a separate determination as to whether a criminal violation
15 occurred;**

16 **b. The parent's or person's right to file a complaint with the division or to
17 request a review of the findings made by the division in the investigation;**

18 **c. The parent's or person's right to review all records of the investigation unless
19 the review would jeopardize an ongoing criminal investigation or the child's safety;**

20 **d. The parent's or person's right to seek legal counsel;**

21 **e. References to the statutory and regulatory provisions governing child abuse or
22 neglect and how the parent or person may obtain copies of those provisions;**

23 **f. The process the parent or person may use to acquire access to the child if the
24 child is removed from the home; and**

25 **g. The rights listed under subdivision (2) of this subsection;**

26 **(2) An oral notification of the right to:**

27 **(a) Not speak with any agent of the division without legal counsel present;**

28 **(b) Receive assistance from an attorney;**

29 **(c) Have a court-appointed attorney if the person is indigent;**

30 (d) Record any interaction or interview subject to the understanding that the
31 recording may be subject to disclosure to the division, law enforcement, or another
32 party under a court order;

33 (e) Refuse to allow the investigator to enter the home or interview the children
34 without legal counsel present;

35 (f) Withhold consent to the release of any medical or mental health records;

36 (g) Withhold consent to any medical or psychological examination of the child;

37 (h) Refuse to submit to a drug test; and

38 (i) Consult with legal counsel prior to agreeing to any proposed voluntary safety
39 plan; and

40 (3) If the division determines that removal of the child may be warranted, a
41 proposed child placement resources form that:

42 (a) Instructs the parent or other person having legal custody of the child to:

43 a. Complete and return the form to the division or agency;

44 b. Identify in the form at least three individuals who could be relative caregivers
45 or designated caregivers, as those terms are defined under section 210.110;

46 c. Ask the child in a developmentally appropriate manner to identify any adult,
47 particularly an adult residing in the child's community, who could be a relative
48 caregiver or designated caregiver for the child; and

49 d. List on the form the name of each individual identified by the child as a
50 potential relative caregiver or designated caregiver; and

51 (b) Informs the parent or person of a location that is available twenty-four hours
52 a day to the parent or person to submit the information in the form either in person or
53 by facsimile machine or email.

54 2. The division shall adopt a form for the purpose of verifying that the parent or
55 other person having legal custody of the child received the oral notification and written
56 summary required by this section.

✓